

**COMMONWEALTH OF KENTUCKY
KENTUCKY BOARD OF TAX APPEALS
FILE NO. K04-S-18 and K04-S-19**

BOBBY CATLETT

APPELLANT

V. ORDER NO. K-19389

**BOYLE COUNTY PROPERTY
VALUATION ADMINISTRATOR**

APPELLEE

The Kentucky Board of Tax Appeals has delegated authority to the hearing officers pursuant to KRS 13B.030. The hearing officers entered a recommended order in compliance with the provisions of KRS 13B.110. No exceptions or objections to the recommended order were filed. The Board has reviewed the record and the recommended order.

The Kentucky Board of Tax Appeals conducted a hearing in this matter on July 25, 2005 and made the following findings of fact, conclusions of law and recommended disposition.

FINDINGS OF FACT

This assessment appeal is for real property located at 1100 Hustonville Road, (#K04-S-18) and 360 Proctor Street, (#K04-S-19) Danville, Kentucky. The Boyle County Property Valuation Administrator assessed the Hustonville Road property at \$80,000. The taxpayer or Appellant values the property at \$60,000. The Boyle County Board of Assessment Appeals valued the property at \$80,000. The Boyle County Property Valuation Administrator assessed the Proctor Street property at \$50,000.

The taxpayer or Appellant values the property at \$38,000. The Boyle County Board of Assessment Appeals valued the property at \$45,000. The Appellant filed a timely appeal from the local board with the Kentucky Board of Tax Appeals.

The Appellant bought the property on Hustonville Road in 1969 for \$13,000 and the property on Proctor Street in 1974 for \$10,500. That PVA argues that he based the assessment on comparable sales at 450 Smith Street which sold for \$60,000 in 2003, 218 Harding which sold for \$58,000 in 2002 and 107 Alta which sold for \$61,700 in 2004. All of these comparables were in similar neighborhoods and similar type properties.

The Appellant offered the following evidence in support of Appellant's appeal: Mr. Catlett argued that although these properties are located in a commercial zoned area, they are still residential and states that he feels this is the reason the PVA has assessed his property so high. The Hustonville Road property is rented for \$375 per month. Using the 10% rule, this would value the property at \$45,000 which is the amount Mr. Catlett has insured the rental property. He also states that the lot is worth \$15,000. The Proctor Street property is over a hundred years old and is rented for \$295 per month. Again, using the 10% rule, this would value the property at \$35,400 and is insured for \$35,000. This would only leave \$3,000 for the value of the land.

It is the finding of this hearing that the Appellant did sustain his burden of proof regarding his challenge to the final order of the Boyle County Board of Assessment Appeals on the Hustonville Road property. However, the finding of the hearing regarding the Proctor Street property finds that the Appellant did not sustain his burden of

proof regarding his challenge to the final order of the Boyle County Board of Assessment Appeals on the Proctor Street property.

Based upon the evidence in the record, it is the finding of the hearing officers, Nancy Mitchell and Randall Phillips, that the fair cash value of the property in question on Hustonville Road as of January 1, 2004 is \$60,000. Further it is the findings of the hearing officers, Nancy Mitchell and Randall Phillips, that the fair cash value of the property in question on Proctor Street as of January 1, 2004 is \$45,000.

CONCLUSIONS OF LAW

The Kentucky Board of Tax Appeals is vested with exclusive jurisdiction to hear and determine appeals from final rulings, orders and determinations of the Boyle County Board of Assessment Appeals, pursuant to KRS 131.340(1).

The function of the Board is not simply to review the action of the Boyle County Board of Assessment Appeals, but to try anew the issues as presented. *Jefferson County Property Valuation Administrator v. Oxford Properties, Inc.*, Ky. App., 726 S. W. 2nd 317, 319 (1987). See KRS 131.340(1).

Section 172 of the Kentucky Constitution mandates that “all property shall be assessed for taxation at its fair cash value, estimated at the price it would bring a fair voluntary sale.”

The choice of the most appropriate and reliable approach to valuation is within the prerogative of the Board. *Jefferson County Property Valuation Administrator*, 726 S.W. 2d at 319.

Regardless of the manner or method used by the Property Valuation Administrator or the decision of the Kentucky tax Board of Appeals, the finding of valuation must be at its fair cash value, estimated at the price it would bring at a fair voluntary sale. *Helman v. Kentucky Board of Tax Appeals*, Ky.App., 554 S. W. 2d 889 (1977).

As the party proposing that the Kentucky Board of Tax Appeals set aside the decision of the Boyle County Board of Assessment Appeals, the Appellants have the burden of proving a lower value. KRS 13B.090(7).

If the property is sold at or near the assessment date in a fair and voluntary sale, the sale price is usually the best evidence of the property's fair cash value. *Sears, Roebuck & Company v. Boone County Board of Assessment Appeals*, Ky. App., 715 S. W. 2d 888, 889 (1986).

Based upon the facts as established in this hearing, the Hearing Officers conclude that the fair cash value of the subject property as of January 1, 2004 is \$60,000 for the Hustonville Road property and \$45,000 for the Proctor Street property.

RECOMMENDED ORDER

It is recommended that the June 18, 2004 final ruling of the Boyle County Board of Assessment Appeals be reversed in the Hustonville Road property (K04-S-18), and the real property be assessed at a fair cash value of \$60,000.

It is also recommended the June 18, 2004 final ruling of the Boyle County Board of Assessment Appeals be upheld in the Proctor Street property (K04-S-19) and the real property be assessed at a fair cash value of \$45,000 as of January 1, 2004.

Each party shall have fifteen (15) days from the date any recommended order is mailed within which to file exceptions to the recommendations with the agency head. Transmittal of a recommended order may be sent by regular mail to the last known address of the party.

FINAL ORDER

The Kentucky Board of Tax Appeals has considered the record and accepts the recommended order of the hearing officers, and adopts it as the Board's final order. Failure to file exceptions to an administrative hearing officer's recommendations after a hearing constitutes a failure to exhaust administrative remedies and precludes appellate review. *Swatzell v. Natural Resources and Environmental Protection Cabinet*, Ky App 962 SW 2d 866 (1998).

The June 18, 2004 final ruling of the Boyle County Board of Assessment Appeals is to be sustained in the Proctor Street property (K04-S-19) and the real property be assessed at a fair cash value of \$45,000 as of January 1, 2004. The June 18, 2004 final ruling of the Boyle County Board of Assessment Appeals be reversed in the Hustonville Road property (K04-S-18), and the real property be assessed at a fair cash value of \$60,000.

The following information is provided pursuant to the final order requirements of KRS Chapter 13B:

This is a final and appealable order. All final orders of this agency shall be subject to judicial review in accordance with the provisions of KRS Chapter 13B. A party shall institute an appeal by filing a petition in the Circuit Court of venue, as

provided in the agency's enabling statutes, within thirty (30) days after the final order of the agency is mailed or delivered by personal service. If venue for appeal is not stated in the enabling statutes, a party may appeal to Franklin Circuit Court or the Circuit Court of the county in which the appealing party resides or operates a place of business. Copies of the petition shall be served by the petitioner upon the agency and all parties of record. The petition shall include the names and addresses of all parties to the proceeding and the agency involved, and a statement of the grounds on which the review is requested. The petition shall be accompanied by a copy of the final order.

A party may file a petition for judicial review only after the party has exhausted all administrative remedies available within the agency whose action is being challenged, and within any other agency authorized to exercise administrative review.

A petition for judicial review shall not automatically stay a final order pending the outcome of the review, unless:

- (a) An automatic stay is provided by statute upon appeal or at any point in the administrative proceedings;
- (b) A stay is permitted by the agency and granted upon request; or
- (c) A stay is ordered by the Circuit Court of jurisdiction upon petition.

Within twenty (20) days after service of the petition of appeal, or within further time allowed by the Circuit Court, the Kentucky Board of Tax Appeals shall transmit to the reviewing court the original or a certified copy of the official record of the proceeding under review in compliance with KRS 13B.140(3).

ORDER NO. K-19389

**DATE OF ORDER
AND MAILING: October 14, 2005**

**KENTUCKY BOARD OF TAX APPEALS
FULL BOARD CONCURRING**

**NANCY MITCHELL
CHAIR**